

AN ORDINANCE CLARIFYING STANDARDS AND ENFORCEMENT PROVISIONS FOR SOLID WASTE COLLECTION IN THE TOWN OF DUCK, NORTH CAROLINA

Ordinance 23-03

WHEREAS, During their recent preparation of the Duck Vision 2032 and annual strategic goal setting session, the Town Council members emphasized the importance of staff improving the enforcement of ordinance provisions related to the storage of trash on residential properties and the placement of trash and/or recycling carts at the street for pick-up; and

WHEREAS, In their efforts to implement the Council’s objectives, staff reviewed Chapter 50 of the Duck Town Code, *Solid Waste*, to find ways to make it easier for all stakeholders and the public to understand and staff to enforce.

WHEREAS, These amendments will better organize the standards in a logical manner, eliminate duplication, and clarify necessary standards.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Duck Town Council of the Town of Duck, North Carolina, as follows:

PART 1. Chapter 50 of the Duck Code of Ordinances is hereby amended and restated in its entirety as follows (with additions and deletions indicated):

§ 50.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING MATERIALS. Any material such as lumber, brick, block, stone, plaster, concrete, asphalt, roofing shingles, gutters and other substances accumulated as the result of repairs or additions to existing buildings or structures, construction of new buildings or structures or the demolition of existing buildings or structures.

BULK CONTAINER (DUMPSTER).

(1) A metal container constructed so as to be watertight but may have a drain plug at the lowest point of the container to facilitate the drainage of any liquids that might accumulate in the container or from cleaning the container.

(2) ***BULK CONTAINERS*** shall have doors that open on the top and shall be designed so that they can be emptied mechanically by trucks operated by town designated collectors of solid waste.

BULK CONTAINER LOADING PAD.

(1) An 8-foot by 10-foot by 4-inch concrete pad which must be provided for each bulk container.

(2) The **PAD** must have a vertical clearance of 16 feet and be enclosed with a screen on 3 sides constructed of suitable materials to conceal the bulk container within.

(3) The dimensions of the screen ~~shall be 7 feet by 10 feet~~ must be adequate to screen the bulk container(s).

BULKY WASTES. Large, bulky items such as stoves, water heaters, sofas, box springs and the like, which cannot normally be loaded into the back of a standard garbage truck.

BUSINESS TRASH. Any waste accumulation of dust, paper, sawdust, cardboard, excelsior, rags or other accumulations other than garbage or household trash which are usually attendant to the operation of stores, offices and similar businesses.

COMMERCIAL ESTABLISHMENT. Any retail, wholesale, motel, hotel, institutional, religious, governmental or nonresidential establishment which may generate garbage, business trash or other refuse.

DEAD SMALL ANIMALS. Dead cats, dogs, small household pets and other animals of similar size.

DETACHABLE CONTAINER.

(1) A container unit that may vary in capacity between 5 cubic yards and 42 cubic yards and which is used for collecting, storing and transporting waste building materials, business trash, industrial waste, hazardous refuse or yard trash.

(2) The unit may or may not use an auxiliary packing mechanism for the compaction of the materials into the container and may be of the open or closed type.

(3) The distinguishing feature of the **DETACHABLE CONTAINER** is that it is lifted by a specially designed and equipped truck and becomes an integral part of that truck for transporting waste materials to a disposal site.

DUPLEX. Any dwelling place designed for, or occupied by, 2 families.

GARBAGE.

(1) The waste produced by the handling, processing, preparation, cooking and consumption of animal or vegetable products used for human consumption.

(2) This definition shall include any other matter that is also subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors or which before, during and after decay may serve as feeding or breeding material for animals or flies or other insects.

HAZARDOUS REFUSE. Materials such as poisons, acids, caustics, harmful or dangerous chemicals, infected materials, offal, fecal matter, explosives, highly flammable material and parts of the human anatomy, including pathological specimens.

HOUSEHOLD TRASH. Waste accumulation of paper, sweepings, dust, rags, bottles, cans or other waste material of any kind, other than garbage, which is attendant to residential housekeeping.

INDUSTRIAL WASTE. All waste, including solids, semi-solids, sludges and liquids created or generated by factories, plants or other manufacturing enterprises.

LITTER. Garbage, refuse, waste materials or any other discarded, used or unconsumed substance which is not handled as specified herein.

LOADING AND UNLOADING AREA. Any space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons.

MULTIPLE DWELLING UNIT. A building or portion thereof used or designed as a residence for 3 or more families living independently of each other and doing their own cooking therein, including apartment houses.

REFUSE. Solid waste accumulations consisting of garbage, household trash, yard trash and business trash as defined herein.

ROLLOUT CART.

(1) A plastic container of substantial construction with a tight-fitting lid, having a capacity of 96 gallons, equipped with wheels and designed to be picked up at curbside by an automated style garbage truck.

(2) All **ROLLOUT CARTS** used will be issued by the town or by a person contracted by the town to collect solid waste and recycling and may not be disfigured in any manner.

SEASONAL RENTAL UNIT. Any single-family or duplex residential unit rented or available for rent on a short-term basis of less than 1 month at a time.

SINGLE RESIDENTIAL UNIT. Any dwelling place occupied by 1 family.

TREE AND SHRUBBERY TRIMMINGS. Waste accumulation of tree branches, tree limbs, bushes, shrubbery, cuttings or clippings usually created as refuse in the trimming or cutting of trees, shrubs or bushes.

YARD TRASH. Grass clippings, leaves, twigs or the combination of these that are usually associated with yard or lawn maintenance activity. This type of refuse shall be containerized as provided in this chapter. Exceptions shall be only as provided in this chapter.

§ 50.02 DISPOSITION OF LITTER, GARBAGE AND THE LIKE.

(A) It shall be unlawful for any person to cause or allow unsightly litter, foul or offensive odors

or potentially dangerous materials to remain on or emanate from any property under his or her control, or to discard, abandon or cause the same on any public or private property within the corporate limits of the town.

(B) The ~~occupant and property~~ owner, ~~individually or jointly, of each house or other building or the owner of an unoccupied building or unimproved land~~ shall be responsible for maintaining the premises in a clean and sightly condition by periodically removing all litter, trash, garbage, building materials or other refuse and placing the same in receptacles for collection by the town acting through its employees, agents or other authorized representatives.

(C) It shall be unlawful for any person or the employees or agents of any person to throw or otherwise deposit any trash, refuse, bottles, cans or other containers of any kind, garbage or any type of waste material, or to place or leave or cause to be placed or left, temporarily or permanently, any trash, refuse, garbage, bottles, cans or other containers of any kind, any scrapped or abandoned automobile, truck or other motor vehicle or part thereof, upon any property, whether private or public (including the right-of-way of any street, state highway or public road, or on the portion of the beach of the Atlantic Ocean lying between the high and low water marks, or upon the shoreline of Currituck Sound between the high and low water marks).

(D) The provisions of this section shall not be construed to forbid the depositing and placing of household trash and garbage and other waste material and trash cans or other proper receptacles provided for the pickup and removal thereof by the town ~~garbage refuse~~ collector in accordance with provisions of this chapter, and the provisions of this division shall not apply to the depositing of fill material upon any building site for the purpose of constructing a foundation thereon; provided, that fill material for the construction shall not consist of organic trash or garbage, wood or wood products, bottles, cans, containers, scrapped or abandoned automobiles, trucks or motor vehicles or parts thereof.

§ 50.03 TYPE, ~~SIZE AND NUMBER THE LIKE,~~ OF REFUSE CONTAINERS.

(A) All refuse to be collected by the town shall be stored in proper receptacles between times of collection. All single-family residences and each unit of a duplex located anywhere within the town limits, unless otherwise excluded by the town, will utilize a rollout cart for the placement of refuse for pickup by the town.

(B) A minimum of 1 rollout cart is required at each single-family residence and at each unit of a duplex. ~~All seasonal rental units must provide a minimum of 2 rollout carts, or additional rollout carts as required.~~ The following table shall be used to determine the minimum number and type of waste containers required for single-family residential purposes:

<i>Permitted Occupancy</i>	<i>Minimum Number of Rollout Carts Required</i>
One to six (1-6)	One rollout cart required
Seven to twelve (7-12)	Two rollout carts required
Thirteen to eighteen (13-18)	Three rollout carts required

Over 18	Four rollout carts required
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(C) All seasonal rental units must provide a minimum of 2 rollout carts, or additional rollout carts as deemed necessary by the town to adequately manage seasonal occupancy.

(D) The property owner will be responsible for replacing rollout carts that have been lost or stolen. The number of ~~R~~rollout carts necessary to comply with this chapter must be ~~purchased~~ obtained by the property owner.

(E) Each new residence built after the date of adoption of the ordinance from which this section is derived must have in place the appropriate number of rollout carts prior to the issuance of a certificate of occupancy.

(F) Each improved commercial or multi-family residential property shall have a bulk container or containers of sufficient capacity necessary to contain the refuse generated on-site by the commercial use as determined by the town.

(G) Any commercial or multi-family residential establishment may use rollout carts upon approval by the town.

(H) ~~Businesses are authorized to have D~~detachable containers ~~are authorized through~~ and refuse collection services provided by private contractors. ~~The contractors must be licensed by the town.~~

§ 50.04 REFUSE RECEPTACLES TO BE SAFE.

(A) All refuse receptacles as required herein shall be of safe construction and design and shall be maintained in a good, serviceable and sanitary condition at all times.

(B) Any refuse receptacle which does not conform to the provisions of this chapter or which has ~~ragged or sharp edges or other~~ defects likely to hamper or injure the person collecting the contents thereof, or the public generally shall be promptly replaced or repaired upon notice.

(C) If the refuse receptacle, after due and proper notice, has not been replaced or repaired within 30 days, the town shall have the authority to remove the refuse receptacle as refuse.

- (D) No person shall place any of the following items in a solid waste container:
- (1) Motor vehicle tires;
 - (2) Bulky wastes;
 - (3) Building materials;
 - (4) Hazardous, radioactive or medical wastes;
 - (5) Burning or ~~smouldering~~ smoldering materials or any other materials which would create a fire hazard;
 - (6) Rocks, dirt, sod, paint or motor oil; or
 - (7) Anti-freeze.

§ 50.05 PREPARATION AND PLACEMENT OF REFUSE FOR COLLECTION.

(A) *Generally.*

(1) The garbage collection schedule will be established by the town and changed as conditions warrant from season to season.

(2) Bulk containers or rollout carts which are obstructed or not properly positioned when the truck passes will not be collected until the next regularly scheduled pickup date.

(3) Lids must be **fully** closed when in use.

(B) *Containers required.* All refuse shall be placed in approved containers.

(C) *Access to containers.*

(1) Routes for access and collection of residential solid wastes **and recycling** shall be improved and maintained for the safety of solid waste collectors.

(2) Access routes shall not be obstructed.

(3) Service will not be provided when dogs or other animals interfere with collectors.

(D) *Large items/bulk pickup.*

(1) ~~*Residential collection.*~~ On days ~~that may be~~ determined by the ~~Town Council,~~ **large, bulky items such as stoves, water heaters, sofas, box springs and the like, which cannot normally be loaded into the back of a standard garbage truck,** bulky wastes shall be placed near but not upon the improved portion of the street in a manner that allows convenient pickup of the bulky waste ~~picked up~~ with equipment designed for large, bulky items.

(2) This service does not include the pickup of building materials, roofing, soil, rock, concrete, tree stumps, refrigerators and other items or material containing substances classified as hazardous waste.

~~(2) *Commercial collection.*~~

~~—(a) Large, bulky items which cannot normally be loaded into the back of a standard garbage truck shall be picked up with equipment designed for large, bulky items.~~

~~—(b) This service does not include construction materials, carpet, wood, more than 25 mattresses/box springs, stumps, logs, tree and shrubbery trimmings and the like.~~

~~—(c) Each pickup shall be limited to a maximum of no more than 1,500 pounds per item.~~

(E) *Placement of rollout carts.*

(1) ~~On the day of collection, unless otherwise provided by this chapter, it shall be the responsibility of the property owner to position rollout carts for collection. Rollout carts shall not be placed for collection before 5:00 p.m. in the evening prior to the day of collection.~~

(2) Rollout carts must be placed for pickup within the street right-of-way and within 4 feet of the improved portion of the street, but not ~~on the improved portion of the street within the vehicular travel way or drainage ditch stormwater management feature of any street.~~

(3) ~~*Public sidewalks.*~~ Refuse and trash contained in approved refuse receptacles may be placed on the curbside on the day of collection so long as it does not unreasonably interfere with pedestrian traffic. However, no refuse receptacle may be placed upon the Duck Trail or other public multiuse path.

(4) Following collection, rollout carts shall ~~The rollout cart should~~ be removed from the street right-of-way no later than ~~12:00 a.m.~~ 10:00 p.m. on the day of collection.

(5) The property owner ~~or occupant~~ shall also be responsible for the removal and proper storage of rollout carts. When not scheduled and placed for pickup, rollout carts must be securely stored at least 25 feet from the improved portion of the street.

§ 50.06 COMMERCIAL ESTABLISHMENT CONTAINER REQUIREMENTS.

(A) In the event that a commercial establishment generates more refuse than can be handled by 2 rollout carts, that establishment ~~will~~ may be required after notification to provide a suitable bulk container loading pad, and a bulk container.

(B) The town is authorized to determine when a bulk container is unserviceable and may discontinue service for the same after proper notification.

§ 50.07 STORAGE OF REFUSE AND TRASH.

All accumulations of refuse and trash shall be stored or placed for collection in accordance with this section.

~~(A) Public streets. No refuse, trash, yard trash, leaves, or tree and shrubbery trimmings, refuse receptacle or bulk container shall be placed on any sidewalk, multiuse path, or within the vehicular travel way, or drainage ditch stormwater management feature of any street.~~

~~(B) Public sidewalks. Refuse and trash contained in approved refuse receptacles may be placed on the curbside on the day of collection so long as they do not unreasonably interfere with pedestrian traffic. However, no refuse receptacle may be placed on the multiuse pedestrian path.~~

~~(C) Not scheduled for pickup. When not scheduled and placed for pickup, rollout carts must be securely stored at least 10 feet outside of the right-of-way.~~

(D) *Blockage of storm drains/drainage ditches.*

(1) No person shall place any refuse, trash, refuse receptacle or container on, upon or over any storm drain/drainage ditch opening or so close thereto as to be drawn by the elements into the same.

(2) No person shall place any refuse, trash, refuse receptacle or container in a gutter, thereby causing blockage of storm water flows or possible blockage of storm drainage systems if carried by the elements into the same.

(E) *Unauthorized accumulations.*

(1) Any unauthorized accumulation of refuse or trash on any lot, property, premises, public street, sidewalk, alley or other public or private place is prohibited.

(2) Failure of the owner or occupant, after notice of violation, to remove and correct any unauthorized accumulation of refuse or trash shall be deemed a violation of this chapter or other provisions of this code.

(H) *Junk*. It shall be unlawful and in violation of this chapter for any person to store outside any building or dwelling, except as provided herein, any dilapidated furniture, appliances, vehicles, machinery, equipment, building materials or any other item which is either in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition and which is not completely enclosed within a building or dwelling.

(I) *Appliances*. It shall be unlawful and in violation of this chapter for any person to leave outside any building or dwelling, in a place accessible to children, any appliance, refrigerator or other container of any kind which has an airtight door or cover with a snaplock or latch without first removing the lock or latch, door or cover from the appliance, refrigerator or container.

~~(H) *Multi-family residential areas*.~~

~~—(1) For townhouses, condominiums, apartments and the like, where it is deemed impractical for rollout containers to be serviced, a bulk container and bulk container loading pad will be required as per § 50.06 above.~~

~~(2) The location and design must be approved by the town.~~

~~(I) *Neighborhood Owned Properties*: All owner associations with accessways adjacent to the beach or sound shall maintain litter control by providing receptacles and cleaning up litter each day on both sides of the accessway.~~

(J) *Review process*.

(1) ~~It shall be the responsibility of the Building Inspector, The method and location of refuse storage for collection shall be reviewed during the planning review process and prior to the issuance of a building permit for new commercial buildings or extensive renovations to existing commercial buildings, to review the method and location of refuse storage for collection for the building.~~

(2) If any problems are foreseen during this review, they shall be called to the attention of the owner or designer for correction and submitted as recommended conditions of approval for applications proceeding to the Planning Board and Town Council.

~~§ 50.08 LOADING AND UNLOADING AREAS.~~

~~(A) All loading and unloading areas shall be provided with refuse receptacles or containers for loose papers, debris, packaging materials and other business trash.~~

~~(B) The number and type of the container necessary for each area shall be as required to maintain clean, neat and litter free premises.~~

§ 50.09 CONSTRUCTION AND DEMOLITION SITES.

(A) All construction and demolition contractors shall provide on-site refuse receptacles, bulk containers, detachable containers or containment areas for local debris, paper, waste building materials, scrap building materials and other trash produced by those working on the site.

(B) All like materials shall be contained, and the site maintained in a clean and litter-free condition.

(C) Dirt, mud, sand, construction materials or other debris deposited upon any public or private property as a result of construction or demolition activities shall be immediately removed by the contractor and in all cases by the end of the workday.

§ 50.10 POINTS OF COLLECTION.

~~(A) On the day of collection, unless otherwise provided by this chapter, it shall be the responsibility of the owner or occupant to position rollout carts as outlined in § 50.05 above for collection, except as otherwise provided for herein.~~

~~(B) No refuse receptacles or containers, unless otherwise provided in this chapter, shall be stored in front of a building or dwelling except on the day of collection.~~

§ 50.11 COLLECTION PRACTICES.

(A) *Residential.*

(1) Garbage and household trash accumulated at residences shall be collected on a schedule determined by the ~~town~~ **Town Manager**.

(2) These collections shall be limited to rollout carts, yard trash, tree trimmings, cardboard boxes and oversize household trash.

(B) *Commercial establishments.* Service to commercial establishments shall be on a schedule determined by the town. ~~This collection shall be limited to a maximum of 5 bulk containers.~~

(C) *Bulk containers.*

(1) All bulk containers approved for service by the town shall have doors opening on the top. The doors shall be kept closed at all times that the bulk container is not being filled or emptied ~~to prevent trash from blowing out.~~

(2) Bulk containers shall at all times be maintained in a safe, serviceable and sanitary condition. Notice shall be given by the ~~town~~ **Town Manager** of any bulk container not meeting the requirements of this chapter.

~~(3) If, within 30 days, the unit is not in compliance, town service of this unit may be suspended.~~

(4) Bulk containers shall at all times be kept in a place easily and safely accessible to ~~town~~ **collection** equipment even during periods of inclement weather such as snow and ice.

(D) *Owner responsibility.*

(1) ~~Service shall not be provided to establishments that have obstructions or vehicles impeding access to service the container. No service shall be given those persons or establishments permitting objects, obstructions or vehicles to hinder in any way the servicing of the container.~~

(2) The immediate cleaning up of spilled refuse in the area of the container shall be the responsibility of the property owners or occupants utilizing the container.

(3) Service shall be discontinued to persons or establishments failing to locate or maintain containers in accordance with the requirements of this chapter.

(4) The town shall not ~~afford~~ provide both ~~mobile refuse receptacle~~ rollout cart service and bulk container service to the same persons or establishments.

~~(5) In those cases where the Town Manager, under the provisions of this chapter, directs the change from mobile refuse receptacle to bulk containerization, compliance shall be within 30 days or service may be discontinued.~~

(6) Any cause for discontinuation of service shall also constitute a violation of this chapter.

(E) *Industrial waste.* The collection and disposal of industrial waste shall be the responsibility of the operator of the ~~factory, plant or~~ enterprise creating or causing the same.

(F) *Hazardous refuse.* No hazardous refuse, as defined herein, shall be placed in any receptacle, container or unit used for refuse collection by the town.

~~§ 50.12 STORAGE OF MOBILE ROLLOUT CONTAINERS.~~

~~—Mobile rollout refuse receptacles returned to curbside after collection shall then be removed to the approved storage location on the day of collection. The property owner or occupant shall be responsible for the removal.~~

§ 50.13 SPECIAL REFUSE OR DISPOSAL PROBLEMS.

(A) *Contagious disease refuse.*

(1) The removal of clothing and bedding from places where highly infectious diseases have prevailed shall be performed under the supervision and direction of the County Health Department.

(2) The refuse shall not be placed in containers for town collection and disposal.

(B) *Hypodermic instruments.* No person shall dispose of or discard any hypodermic needle or any instrument or device for making hypodermic injections before first breaking, disassembling, destroying or otherwise rendering inoperable and incapable of reuse the hypodermic syringe, needle, instrument or device, and without safeguarding the disposal thereof by wrapping or securing the same in a suitable manner so as to avoid the possibility of causing injury to collection personnel.

(C) *Ashes.*

(1) Ashes that are to be collected by the town shall have been wetted and shall be cool to the touch prior to collection.

(2) Ashes shall be placed in approved containers as defined herein.

(3) Refuse receptacles containing ashes shall not weigh more than 50 pounds.

(D) *Cardboard boxes and cartons.* Prior to being deposited as refuse for collection in approved

receptacles or containers, as defined herein, all cardboard boxes, cartons or crates shall be completely collapsed.

(E) *Rubber tires.* It shall be a violation of this chapter for any person to place any rubber tire in any refuse receptacle or container from which refuse is collected by the town.

(F) *Food processing.* All fish (seafood) processing waste, surplus entrails, heads, tails, scales, shells, bones and the like, must be packaged in a watertight container, such as a plastic bag, can and the like, and be placed in authorized containers.

~~§ 50.14 RESPONSIBILITY OF OWNERS, AGENTS AND THE LIKE.~~

~~—The owners or agents, tenants or lessees, jointly and separately, of all residential units and commercial establishments shall be responsible for compliance with this chapter.~~

~~§ 50.15 MAINTENANCE OF SIDEWALKS, RIGHTS-OF-WAY AND THE LIKE.~~

~~—All owners or occupants, jointly and separately, of property shall maintain their property in a clean and litter free manner, including adjacent sidewalks, grass strips, curbs, gutters and rights-of-way to the edge of the surface of the vehicular travelway of any public street.~~

§ 50.16 NOTICE OF VIOLATION OR NONCONFORMITY.

(A) Any notice of violation of this chapter or nonconformity with this chapter shall be in writing.

(B) Written notice of the violation shall be delivered to the violator or, in lieu of hand delivery, shall be sent to the violator via certified mail.

(C) Copies of all notices of violation shall be kept and maintained by the town.

§ 50.99 PENALTY.

(A) Any person continuing to violate any provision or requirement of any section ~~or division~~ of this chapter after notice of violation has been issued to him or her, or any person ~~willfully~~ **willfully** failing, refusing or neglecting to comply with any provision or requirement shall, in addition to any other remedy, be issued a citation in the amount of \$50 with each and every day of violation being a distinct and separate offense.

(B) Upon failure to pay the penalty, a civil action may be instituted to enforce collection of the same.


PART 2. As the ordinance adds and eliminates many sections and subsections of this chapter, all remaining sections and subsections shall be renumbered accordingly.

PART 3. This ordinance shall be effective upon its adoption.



Don Kingston, Mayor

ATTEST:



Lori Ackerman, Town Clerk

Date adopted: April 5, 2023

Motion to adopt by: Monica Thibodesu

Vote: 5 AYES 0 NAYS

